REMARKS

The Examiner has deemed the previous filed Response to Restriction Requirement filed to be not fully responsive. Accordingly, to avoid confusion, Applicants withdraw the previous Response to Restriction Requirement and submits herewith a Substitute Response to Restriction Requirement.

The Examiner has required restriction to one or more inventions as defined below:

Group I: Claims 1-11, 21-22, drawn to an apparatus, classified in class 604, subclass 423.

Group II: Claims 12-14, drawn to a method of use, classified in class 604, subclass 890.1.

Election is made to Group I with traverse. The Examiner states that Group I and Group II are distinct even though Group I is an apparatus and Group II is a method of using the same apparatus because the Examiner believes that the apparatus of claim 1 can be used in a materially different way than the method of Group II. Specifically, the Examiner asserts that the method of Group II does not have a suture tab.

Applicant respectfully disagrees. Claim 12 is the only independent claim of Group II. It recites in element (c) of claim 12 "a suture tab adhered to and extending from said drug delivery device that is used during surgery to adhere said device to the body of a mammalian organism." All of the claims in Group II have the element of the suture tab. Furthermore, there is nothing in the present invention that teaches or suggests that the sustained release drug-delivery devices of Group I is used in any way that is materially different than the method(s) set forth in Group II—specifically, inserting in a desired location in a body of a mammalian organism. Thus, there is no evidence that one could conclude that the devices in Group I can be used in any other way from Group II.

The Examiner required election by the Applicants to one of the following species:

Species A: Pertains to an embodiment having a coated drug core that is coated with a coating.

Species B: Pertains to an embodiment where the device includes an impermeable cup made of silicone with an attached PVA suture tab.

Species C: Relates to a sustained release drug device.

Species E: Pertains to a device where the drug core is a solid tablet.

Provisional election is made to Species C, without traverse. All of claims 1-11 and 20-22 fall within the scope of Species C. None of the claims in Group I (and Group II) are outside the scope of Species C.

Also enclosed with this response is a One-Month Extension of Time.

Applicants believe that the application is in condition for allowance. An early and favorable action on the merits is solicited.

Respectfully submitted,

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